STATE OF ALASKA

IBLA 86-1276 Decided October 27, 1988

Appeal from decisions of the Alaska State Office, Bureau of Land Management, approving reserved mineral estate for patent to Native regional corporation and rejecting State selections to the extent of a conflict. AA-55469 et al.

Affirmed.

1. Alaska: Land Grants and Selections -- Alaska: Statehood Act -- Alaska National Interest Lands Conservation Act: State Selections -- Alaska Native Claims Settlement Act: Conveyances: Regional Conveyances -- Alaska Native Claims Settlement Act: Native Land Selections: State-Selected Lands -- State Selections

BLM properly approved for conveyance to the appropriate Native regional corporation the mineral estate reserved to the United States under a Native allotment approved within the 4-year period following Dec. 18, 1971, pursuant to sec. 14(h)(6) of the Alaska Native Claims Settlement Act, as amended, 43 U.S.C. § 1613(h)(6) (1982), and rejected a conflicting State selection.

APPEARANCES: M. Francis Neville, Esq., Office of the Attorney General, State of Alaska, Anchorage, Alaska, for the appellant; Marcia D. Babcock, Esq., Anchorage, Alaska, for the Cook Inlet Region, Inc.; Dennis J. Hopewell, Esq., Office of the Regional Solicitor, U.S. Department of the Interior, Anchorage, Alaska, for the Bureau of Land Management.

OPINION BY ADMINISTRATIVE JUDGE KELLY

The State of Alaska has appealed from two decisions of the Alaska State Office, Bureau of Land Management (BLM), dated April 10 and May 15, 1986, approving for conveyance to the Cook Inlet Region, Inc. (CIRI), a Native regional corporation, pursuant to section 14(h)(6) of the Alaska Native Claims Settlement Act (ANCSA), as amended, 43 U.S.C. § 1613(h)(6) (1982), the coal, oil, and gas reserved to the United States (hereinafter referred to as the reserved mineral estate) under various certificates of Native allotment, and rejecting certain State selection applications to the extent of a conflict therewith. 1/

1/ In its April 1986 decision, BLM initially approved for conveyance to CIRI the reserved mineral estate in 1,310.85 acres of land under 12 certificates

The record indicates that between February 14, 1973, and June 5, 1975, BLM approved the nine Native allotment applications involved herein, pursuant to section 18(a) of ANCSA, 43 U.S.C. § 1617(a) (1982). That statutory provision had, effective December 18, 1971, repealed the Act of May 17, 1906, as amended, 43 U.S.C. §§ 270-1 through 270-3 (1970), under which the applications had originally been filed, but provided that pending applications could be approved at the option of the Native applicant. Subsequent thereto, BLM issued certificates of Native allotment, reserving to the United States the coal, oil, and gas. 2/ However, the record further indicates that prior to enactment of ANCSA and subsequent approval of the Native allotment applications, the State had filed 10 general purposes selection applications with respect to either the surface and mineral estates or just the mineral estates in the land also encompassed by the 9 Native allotment applications, pursuant to section 6(b) of the Act of July 7, 1958, P.L. 85-508, 72 Stat. 340 (1958), which authorized the selection of "vacant, unappropriated, and unreserved" public lands. 3/ The Board has obtained from BLM the case file abstracts for these State selections, which abstracts indicate that the selections have not been tentatively approved with respect to the subject land.

At the time of approval of the Native allotment applications and issuance of the certificates of Native allotment, section 14(h)(6) of ANCSA provided simply that all allotments approved pursuant to section 18 of ANCSA during the 4 years following December 18, 1971, would be charged against the total of 2 million acres of public lands authorized to be withdrawn and conveyed to various Native entities, including Native regional corporations, by section 14(h) of ANCSA. At that time, there was no express language in ANCSA providing for conveyance to Native regional corporations of mineral estates reserved to the United States under certificates of Native allotment. However, on December 2, 1980, while the State selection applications were still pending and after approval of the Native allotment applications involved herein and issuance of certificates of Native allotment, Congress

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fn. 1 (continued)
of Native allotment. However, in its May 1986 decision, BLM modified its April 1986 decision, excluding from the approved conveyance the reserved mineral estate in 356.76 acres of land under three certificates of Native allotment which had already been approved for conveyance or conveyed to the State, and approving for conveyance to CIRI the remaining reserved mineral estate in 954.09 acres of land under nine certificates of Native allotment. BLM also modified its April 1986 decision to reject the State selection applications to the extent the State had also claimed the reserved mineral estate approved for conveyance to CIRI.

2/ The nine certificates of Native allotment are described as Nos. 50-73-0135, 50-73-0146, 50-73-0155, 50-73-0161, 50-74-0003, 50-74-0162, 50-75-0087, 50-75-0138, and 50-75-0184.

3/ The 10 State selection applications are described as Nos. A-049337, A-050604, A-052955, A-052985, A-055316, A-058730, A-058731, A-058732, AA-2036, and AA-2732.

enacted section 1406(c) of the Alaska National Interest Lands Conservation Act (ANILCA), P.L. 96-487, 94 Stat. 2494 (1980), which amended section 14(h)(6) of ANCSA by adding certain language. That language specifically provides, in relevant part, that "[a]ny minerals reserved by the United States * * * in a Native Allotment approved pursuant to section 18 of [ANCSA] during the period December 18, 1971, through December 18, 1975, shall be conveyed to the appropriate Regional Corporation" (94 Stat. 2494 (1980)).

Despite the absence of any language in section 14(h)(6) of ANCSA, as originally enacted, expressly providing for conveyance of reserved mineral estates to appropriate Native regional corporations, both BLM and CIRI contend on appeal that the statute necessarily provided for such conveyance and that where, at the time of passage of ANCSA, the State had not validly selected the reserved mineral estate under section 6(b) of the Act of July 7, 1958, as amended, the State selections could not defeat CIRI's ANCSA entitlement. BLM and CIRI specifically note that section 6 of the Act of July 7, 1958, was amended by section 4 of the Act of September 14, 1960, P.L. 86-786, 74 Stat. 1024 (1960), to include within the category of "vacant, unappropriated, and unreserved" public lands available for State selection, the "retained or reserved interest of the United States in lands which have been disposed of with a reservation to the United States of all minerals or any specified mineral or minerals" (74 Stat. 1025). BLM and CIRI argue that, as long interpreted by the Department, there arises no reserved mineral estate available for selection by the State until the land has been "disposed of" by issuance of a patent. Thus, BLM and CIRI conclude that the State had not validly selected the reserved mineral estate involved herein at the time of passage of ANCSA, and thus the State selections could not defeat CIRI's ANCSA entitlement.

In response to the arguments of BLM and CIRI, the State contends that section 14(h)(6) of ANCSA as originally enacted did not provide for conveyance of reserved mineral estates to appropriate Native regional corporations, and that, in any case, the State had identified the reserved mineral estate involved herein for selection prior to passage of ANCSA, thereby excluding that estate from the effect of ANCSA.

[1] As noted supra, as originally enacted, section 14(h)(6) of ANCSA provided simply that Native allotments approved during the 4-year period following December 18, 1971, would be charged against the total of 2 million acres authorized to be withdrawn and conveyed by section 14(h) of ANCSA. It is argued that while section 14(h)(6) of ANCSA did not explicitly provide for conveyance to Native regional corporations of mineral estates reserved under approved and patented Native allotments, nevertheless, Congress implicitly made such provision where regional corporations were to receive whatever was not specifically allocated to other Native entities, including land not allocated to individual Natives as their primary place of residence, under section 14(h) of ANCSA. BLM and CIRI contend that to hold otherwise would deprive the Natives of their entitlement to 2 million acres of public lands.

We agree that section 14(h) of ANCSA as originally enacted authorized the Secretary of the Interior to withdraw and convey 2 million acres of public lands to designated Native entities, including regional corporations,

and that should certain approved Native allotments be charged against that acreage under section 14(h)(6) of ANCSA without a concomitant conveyance of the reserved mineral estates, such entities would as a whole receive less than their full entitlement. However, we cannot conclude that Congress, in enacting section 14(h) of ANCSA, intended either to provide for conveyance of those reserved mineral estates specifically to regional corporations rather than some other Native entity or that the reserved mineral estates in such approved Native allotments be conveyed at all.

BLM and CIRI also purport to find support for their position that section 14(h)(6) of ANCSA as originally enacted provided for conveyance of the reserved mineral estates to appropriate Native regional corporations in the legislative history of ANILCA. Specifically, BLM and CIRI cite the following language in S. Rep. No. 413, 96th Cong., 2d Sess. 312, reprinted in 1980 U.S. Code Cong. & Admin. News 5070, 5256: "[Section 1406(c) of ANILCA] amends Section 14(h)(6) of the ANCSA to make it clear that the retained mineral estate underlying allotments approved during the four year period following enactment of the ANCSA is to be conveyed to the appropriate Region Corporation" (emphasis added).

While congressional expressions of intent regarding previously enacted legislation may be used to interpret ambiguous language in that legislation, we decline to read section 14(h)(6) of ANCSA, as originally enacted, as providing for conveyance to appropriate Native regional corporations of the reserved mineral estate under Native allotments approved during the 4-year period following December 18, 1971, where no such language appears in the statute.

That the Department recognized the need to amend ANCSA to specifically provide for disposition of reserved mineral estates is reflected in a March 3, 1978, memorandum from the Assistant Secretary, Land and Water Resources, to the Secretary regarding implementation of ANCSA. Attached to that memorandum, approved by the Secretary, is a decision, at page 20-J-1, that the Department

> draft and seek support and approval of legislation that would modify the provisions of * * * [section] 14(h) to provide * * * in section 14(h)(6) that any retained mineral estate in a Native allotment approved during the four year period and charged against the 2 million acres in section 14(h), be conveyed to the appropriate Regional corporation at the time such allotment is issued.

By contrast, section 1406(c) of ANILCA specifically amended section 14(h)(6) of ANCSA to provide for conveyance to appropriate Native regional corporations of the reserved mineral estate in Native allotments approved during the 4-year period following December 18, 1971. The Native allotment applications involved herein were approved within that time period. Thus, it would appear that the reserved mineral estate was required to be conveyed to CIRI. That is BLM's and CIRI's position.

However, the State argues that, immediately prior to the enactment of ANILCA, the State's rights to the reserved mineral estate by virtue of its selections had "fully vested" and could not thereafter be defeated where BLM had approved the Native allotments and certificates of Native allotment had issued with a reservation of minerals to the United States and the withdrawal of the land pursuant to section 11(a)(1) and (2) of ANCSA, 43 U.S.C. § 1610(a)(1) and (2) (1982), had terminated. Further, the State contends that Congress, in enacting ANILCA, clearly indicated that it intended to preserve in toto existing valid State selections, even though it did not expressly except reserved mineral estates subject to such selections from the operation of section 1406(c) of ANILCA. In particular, the State argues that there is a well-established principle that subsequent legislation will not be deemed to dispose of land where equitable title has already vested.

Next, the State submits that section 14(h) of ANCSA, as originally enacted and as amended by section 1406(c) of ANILCA, only authorizes the conveyance of "public lands" located outside the areas withdrawn by sections 11 and 16 of ANCSA, as amended, 43 U.S.C. §§ 1610 and 1615 (1982), which lands are defined in relevant part as all Federal lands "except * * * land selections of the State of Alaska which have been * * * identified for selection by the State prior to January 17, 1969" (43 U.S.C. § 1602(e) (1982)). The State concludes that since it identified the subject lands prior to such date, they are excluded from the definition of "public lands."

In addition, the State notes that the legislative history of ANILCA indicates that Congress did not intend to defeat valid State selections. Specifically, the State cites the following language in S. Rep. No. 413, 96th Cong., 2d Sess. 238, reprinted in 1980 U.S. Code Cong. & Admin. News 5070, 5182:

> The Committee considered a savings clause in regard to the validity of State land selections and felt it to be unnecessary. The Committee does not intend that existing State land selections made pursuant to the Alaska Statehood Act shall be deemed to have been validated or invalidated by the provisions of this Act, except as expressly provided in this Act.

Finally, the State notes that section 906(d)(1) of ANILCA, 43 U.S.C. § 1635(d)(1) (1982), provides for the legislative conveyance of certain lands subject to valid State selections, including eight of the nine tracts involved herein.

Upon approval of the Native allotments and issuance of certificates of Native allotment, the reserved mineral estate had come into existence, which estate was arguably then subject to the State selections. See 43 U.S.C. § 1635(e) (1982); State of Alaska, 73 I.D. 1, 11 (1966), rev'd, Kalerak v. Udall, No. A-35-66 (D. Alaska Oct. 20, 1966), rev'd, 396 F.2d 746 (9th Cir. 1968), cert. denied, 393 U.S. 1118 (1969); but see 43 CFR 2091.1(a); Gonzales v. Udall, No. A-128-68 (D. Alaska June 30, 1972); State of Alaska, 20 IBLA 341 (1975). Moreover, according to the State, most of the subject

land had been withdrawn from appropriation under the public land laws by section 11(a)(1) and (2) of ANCSA, which withdrawal had been extended in part by a Native village corporation selection, but that this withdrawal had terminated by the time of passage of ANILCA. See 43 U.S.C. § 1621(h)(1) and (2) (1982); Cook Inlet Region, Inc., 77 IBLA 383, 90 I.D. 543 (1983). In addition, there is nothing in the record to indicate that the State selections were otherwise precluded from attaching to the subject land immediately prior to the passage of ANILCA. Thus, to the extent the State selections were then in accordance with section 6(b) of the Act of July 7, 1958, as amended, we will assume without deciding that the
State at that time had acquired inchoate rights to the reserved mineral estate. However, we are not prepared to concede that the State had acquired "vested rights" which would deprive the United States of the power to otherwise dispose of the property. See generally Wyoming v. United States, 255 U.S. 489 (1921); Shepley v. Cowan, 91 U.S. 330 (1875); Solicitor's Opinion, 88 I.D. 909, 912 (1981). Indeed, in the absence of tentative approval of the State selections, which is the case herein, no vested rights would seem to arise. See 72 Stat. 342 (1958); Appeal of Eklutna, Inc., 1 ANCAB 190, 239, 83 I.D. 619, 644 (1976), appeal filed, Eklutna, Inc. v. Andrus, No. A-78-24 (D. Alaska).

Nevertheless, even assuming that the State had acquired inchoate rights to the reserved mineral estate, we conclude that Congress has effectively divested the State of those rights. Congress did so by virtue of enactment of section 1406(c) of ANILCA, which amended section 14(h)(6) of ANCSA. That amendment applies broadly to "[a]ny minerals" reserved by the United States in a Native allotment approved during the 4-year period following December 18, 1971, and provides for conveyance of such minerals to the appropriate Native regional corporation. 43 U.S.C. § 1613(h)(6) (1982). The only exception to the provision for conveyance expressed in the statute is where the minerals are located within a wildlife refuge or the "Lake Clark areas," neither of which obtain here. Id. There is simply no exception, as the State recognizes, for "minerals" then subject to a valid State selection, and we decline to read one into the statute.

The State contends, nevertheless, that an exception is "necessarily presumed" (Statement of Reasons (SOR) at 15). We disagree. The State first argues that subsequent legislation will not be construed to dispose of land where equitable title has already vested under prior authorizing legislation, citing Beecher v. Wetherby, 95 U.S. 517 (1877), and Copper v. Roberts, 59 U.S. 173 (1858). As noted supra, we do not accept that the State held, with respect to the subject reserved mineral estate, equitable title which had vested at the time of passage of ANILCA. Thus, we conclude that this case does not come within the ambit of Beecher and Cooper where title to certain land had vested in the State.

In the present case, section 14(h)(6) of ANCSA, as amended, provides for conveyance of reserved mineral estates under certain approved Native allotments solely to the appropriate Native regional corporations and, thus, necessarily precludes conveyance to the State and, further, necessarily

divests the State of the rights it may have already had in those estates. We find precedent for such divestment in ANCSA itself. In particular, sections 11(a)(2), 12(a), and 14(a) of ANCSA, as amended, 43 U.S.C. §§ 1610(a)(2), 1611(a), and 1613(a) (1982), provide for withdrawal of land selected by or tentatively approved to, but not yet patented to, the State and for subsequent selection by and conveyance to Native village corporations. In State of Alaska, 19 IBLA 178, 180 (1975), appeal dismissed, Bristol Bay Native Corp. v. Morton, No. A 75-63 (D. Alaska), we concluded that Congress had thereby provided for a "transcendent right of selection" by a Native village corporation, i.e., a right which transcended the State's rights under a State selection filed prior to enactment of ANCSA. See also State of Alaska, 19 IBLA 316 (1975). Similarly, we conclude that Congress in amending section 14(h)(6) of ANCSA to provide for conveyance of reserved mineral estates exclusively to appropriate Native regional corporations intended to transcend any rights then held by the State. Moreover, in Seldovia Native Association, Inc., 6 ANCAB 369, 89 I.D. 74 (1982), the Alaska Native Claims Appeal Board held that BLM had correctly concluded that it was bound to approve lands for conveyance to a Native regional corporation and to reject a conflicting Native village corporation selection application notwithstanding the fact that the village corporation had first selected the land and arguably acquired equitable title thereto where Congress had amended ANCSA to specifically provide for conveyance to the regional corporation. Likewise, in the present case, section 1406(c) of ANILCA amended section 14(h)(6) of ANCSA to specifically provide for conveyance of all reserved mineral estates in certain approved Native allotments to the appropriate Native regional corporations, thereby precluding BLM from conveying those estates to any other party. The Department must conform to Congress' intent. Ptarmigan Co., 91 IBLA 113, 116 (1986), appeal filed, Bolt v. United States, No. A87-106 (D. Alaska Mar. 12, 1987).

The State next argues that Congress specifically indicated that it did not intend to defeat prior valid State selections where "public lands," which lands were authorized to be withdrawn and conveyed by section 14(h) of ANCSA as originally enacted and as amended by section 1406(c) of ANILCA, were defined by section 3(e) of ANCSA, as amended, 43 U.S.C. § 1602(e) (1982), to exclude land selections of the State which had been identified for selection prior to January 17, 1969. In addition, the State notes that section 14(h) of ANCSA by its terms only applies to lands outside the areas withdrawn by sections 11 and 16 of ANCSA. The State, thus, contends that section 14(h) of ANCSA has no application to the subject land to the extent it was either identified for State selection prior to January 17, 1969, or withdrawn by section 11(a)(1) and (2) of ANCSA.4/ See Doyon, Ltd., 6 ANCAB

4/ The State notes that Congress specifically dealt with the question of reserved mineral estates within areas withdrawn by section 11 of ANCSA in section 1403 of ANILCA, P.L. 96-487, 94 Stat. 2492 (1980). However, as the State recognizes, section 1403 of ANILCA amended section 12(c) of ANCSA, 43 U.S.C. § 1611(c) (1976), and as such only governed satisfaction of the 16-million acre entitlement of Native regional corporations under section 12(c) of ANCSA and not the 2-million-acre Native entitlement under section 14(h) of ANCSA.

95, 88 I.D. 886 (1981); Appeals of Seldovia Native Association, Inc., 1 ANCAB 65, 83 I.D. 461 (1976).

However, even assuming that the subject land does not constitute "public lands" located outside areas withdrawn by sections 11 and 16 of ANCSA, the State, as CIRI points out, fails to recognize the distinct nature of section 14(h)(6) of ANCSA. Cf. Oregon Portland Cement Co., 6 ANCAB 65, 88 I.D. 760 (1981). That statutory provision does not provide for withdrawal and conveyance of any lands in furtherance of the general authorization contained in section 14(h) of ANCSA, but rather, provides that certain land already approved for conveyance under Native allotments shall be "charge[d]" against that authorization, with a concomitant conveyance of the reserved mineral estate. 43 U.S.C. § 1613(h)(6) (1982). There is no indication in the statute that such charged land was required to be of the same character as land authorized to be withdrawn and conveyed. Indeed, section 14(h)(6) of ANCSA provided that "all allotments" would be charged, presumably regardless of whether they encompassed "public lands" located outside areas withdrawn by sections 11 and 16 of ANCSA. Id. Similarly, "[a]ny minerals" thereby reserved were required to be conveyed to the appropriate Native regional corporation. We, therefore, discern no intention on the part of Congress to exclude reserved mineral estates subject to valid State selection from section 14(h)(6) conveyances and, thus, to preserve the selections based on the foregoing argument.

The State also purports to find support in the statement in the legislative history of ANILCA that, except as expressly provided for, ANILCA was not intended to validate or invalidate "existing State land selections." S. Rep. No. 413, 96th Cong., 2d Sess. 238, reprinted in 1980 U.S. Code Cong. & Admin. News 5070, 5182. However, the effect of section 14(h)(6) of ANCSA, as amended, is not to invalidate existing State selections but to override the affected selections in favor of conveying the reserved mineral estates to appropriate Native regional corporations.

Finally, the State contends that the intent of Congress not to defeat valid state selections in amending section 14(h)(6) of ANCSA is most evident in section 906(d)(1) of ANILCA. Section 906(d)(1) of ANILCA provides that:

> In furtherance of the State's entitlement to lands under section 6(b) of the Alaska Statehood Act, the United States hereby conveys to the State of Alaska, subject only to valid existing rights and Native selection rights under the Alaska Native Claims Settlement Act, all right, title and interest of the United States in and to all vacant, unappropriated, and unreserved lands, * * * which are specified in the list entitled "Prior State of Alaska Selections to be Conveyed by Congress", dated July 24, 1978, submitted by the State of Alaska and on file in the Office of the Secretary except those Federal lands which are specified in a list dated October 19, 1979, submitted by the State of Alaska and on file with the Office of the Secretary.

43 U.S.C. § 1635(d)(1) (1982). The State notes that, as admitted by BLM, eight of the nine tracts of land involved herein are on the list conveyed

under section 906(d)(1) of ANILCA, and argues that they were, thus, legislatively conveyed. We do not agree that the eight tracts of land have already been legislatively conveyed. In the absence of issuance of tentative approval of a State selection, section 906(i) of ANILCA, 43 U.S.C. § 1635(i) (1982), provides that nothing contained in section 906 of ANILCA "shall relieve the Secretary of the duty to adjudicate conflicting claims" regarding lands subject to State selection. Indeed, section 906(d)(3) of ANILCA provides for issuance of tentative approvals "pursuant to subsection (i) of this section." 94 Stat. 2439 (1980). 5/ We conclude that the provision in section 14(h)(6) of ANCSA, as amended, for conveyance of existing reserved mineral estates to appropriate Native regional corporations gave rise to "conflicting claims," which must be adjudicated prior to issuance of tentative approval pursuant to section 906(d)(3) of ANILCA.

In its May 1986 decision, BLM concluded that the State's entitlement under section 906(d)(1) of ANILCA to the reserved mineral estate involved herein is inferior to the conflicting claim of CIRI under section 14(h)(6) of ANCSA, as amended. We agree. As noted by BLM, section 1412 of ANILCA, 43 U.S.C. § 1639 (1982), specifically provides that, except as specifically provided otherwise, "nothing in [ANILCA] shall be construed to alter or amend any of [the] provisions [of ANCSA]." Thus, we conclude that the legislative conveyance provided for in section 906(d)(1) of ANILCA is not intended to alter the conveyance of the reserved mineral estates to appropriate Native regional corporations, including CIRI, provided for in section 14(h)(6) of ANCSA, as amended, especially where it appears that Congress had intended that conveyance when ANCSA was originally enacted. To hold otherwise would result in an alteration of section 14(h)(6) of ANCSA, as amended, without express provision therefor in section 906(d)(1) or other section of ANILCA. 6/

We, therefore, conclude that BLM properly approved for conveyance to CIRI pursuant to section 14(h)(6) of ANCSA, as amended by section 1406(c) of ANILCA, the subject reserved mineral estate, and rejected State selections to the extent of a conflict therewith.

5/ In this respect, the legislative conveyance provided for in section 906(d)(1) of ANILCA differs from that in section 906(c)(1) of ANILCA, 43 U.S.C. § 1635(c)(1) (1982), whereby Congress confirmed prior tentative approvals of State selections. Such confirmation was deemed in State of Alaska v. Thorson (On Reconsideration), 83 IBLA 237, 91 I.D. 331 (1984), to remove the land from the jurisdiction of the Department and, thus, to preclude adjudication of conflicting claims.

6/ The State argues, on the other hand, that to accord precedence to the State selections would not frustrate CIRI's section 14(h)(6) entitlement where CIRI would have selection rights in lieu thereof under section 14(h)(9) of ANCSA, as amended, 43 U.S.C. § 1613(h)(9) (1982). However, the legislative history of that statutory provision, enacted as part of ANILCA, suggests that it was intended to provide lieu selection rights where ANILCA itself otherwise barred a Native regional corporate section 14(h)(6) entitlement, e.g., within a wildlife refuge. See 1980 U.S. Code Cong. & Admin. News 5070, 5256. There is no suggestion lieu selection rights were intended to benefit a regional corporation a State selection took precedence.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decisions appealed from are affirmed.

John H. Kelly
Administrative Judge

I concur:

Wm. Philip Horton
Chief Administrative Judge